UNITED
NATIONS

AT

Administrative Tribunal

Distr.
LIMITED

AT/DEC/824
25 July 1997

ORIGINAL: ENGLISH

ADMINISTRATIVE TRIBUNAL

Judgement No. 824

Cases No. 777: KHADRA
No. 780: FAHOUM
No. 781: NOURALLAH
No. 783: ZEIDAN
No. 784: KHALAF

Against: The Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

THE ADMINISTRATIVE TRIBUNAL OF THE UNITED NATIONS,

Composed of Mr. Mikuin Leliel Balanda, Vice-President, presiding; Ms. Deborah Taylor Ashford; Mr. Julio Barboza;

Whereas, on 9 August 1996, Ahmed Lufti Khadra, Suheir Fadeel Fahoum, Mu'azzaz Mohammed Ali Nourallah, Ata Mohammed Zeidan and Atweh Hamad Khalaf, former staff members of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (hereinafter referred to as UNRWA or the Agency), filed an application in which they requested, in accordance with article 12 (now article 11) of the Statute of the Tribunal, the revision of Judgement No. 716, rendered by the Tribunal on 28 July 1995;

Whereas the application contained pleas requesting the Tribunal to revise its Judgement No. 716, on the following grounds:

> "Decisive factor for the application for revision, is the UN General Assembly's resolution 50/54 dated 11 December 1995, providing, inter alia, for [the] deleti[on of] article 11 from the Statute, after having noted that 'respective procedure has not proved to be [a] constructive or useful element in the adjudication of staff disputes'.
> ...

...

In other words, [the] Applicants are deprived from a stage of appeal [that the] UN General Assembly resolved ... did not prove constructive or useful, and are not provided with effective mechanisms, as asserted by the resolution [50/54] (...)

This places [the] Applicants' case before a 'judicial vacuum' ..."

Whereas the Respondent filed his answer on 9 October 1996;

Whereas the facts in the case have been set forth in Judgement No. 716.

Whereas the Applicants' principal contention is:

The Applicants have been deprived of a stage of the appeals process by General Assembly resolution 50/54 of 11 December 1995, without being provided with an effective replacement procedure.

Whereas the Respondent's principal contention is:

The Applicants' application does not identify "the discovery of some fact ... unknown to the Tribunal" when the Judgement was rendered, as required by article 12 (now article 11) of the Tribunal's Statute.

The Tribunal, having deliberated from 8 to 25 July 1997, now pronounces the following judgement:

I. The Applicants seek revision of Judgement No. 716, by invoking former article 12 (now article 11) of the Statute of the Tribunal, as amended by General Assembly resolution 50/54 which was adopted on 11 December 1995.

II. Article 12 (now article 11) states:

> "The Secretary-General or the applicant may apply to the Tribunal for a revision of a judgement on the basis of the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgement was given, unkown to the Tribunal and also to the party claiming revision, always provided that such ignorance was not due to negligence. The application must be made within thirty days of the discovery of the fact and within one year of the date of the judgement. Clerical or arithmetical mistakes in judgements, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Tribunal either of its own motion or on the application of any of the parties."

III. The Applicant contends that, by adopting General Assembly resolution 50/54, the General Assembly "deprived [the Applicants] from a stage of appeal ... [which] places the Applicants' case before a 'judicial vacuum' ...". The Tribunal notes that the General Asembly resolution does not amend the substance of article 12 (now article 11), whose provisions the Tribunal must respect. The Tribunal recalls its previous judgement in Panis (No. 303 (1983)) in which it held that "the standards contained in article 12 [now article 11] are accordingly relatively strict and lay a substantial burden upon a party who requests revision."

IV. The Applicants cite as the decisive factor for the application for revision the General Assembly resolution 50/54 dated 11 December 1995. The Tribunal finds that this document does not constitute a "fact ... unknown to the Tribunal" (emphasis added) when the judgement was rendered, within the meaning of article 12 (now article 11), of the Tribunal's Statute.

V. For the foregoing reasons, the application is rejected in its entirety.

(Signatures)

Mikuin Leliel BALANDA
Vice-President, presiding

Deborah Taylor ASHFORD
Member

Julio BARBOZA
Member

Geneva, 25 July 1997

R. Maria VICIEN-MILBURN
Executive Secretary